

REMARKS/ARGUMENTS

Claims 1-19 stand rejected under 35 U.S.C. §103(a) as unpatentable over Hopkinson et al. Applicant respectfully disagrees.

In the non-final Office Action dated November 10, 2010, Hopkinson is presented in summary fashion, noting which features of the invention are not disclosed in the reference. It is asserted by the Examiner that the failure of the reference to teach the specific combination claimed is not a serious deficiency, “Hopkinson et al do suggest the composition of ingredients making the claimed invention obvious.” The failure of the reference to additionally teach the claimed ratios, amounts of components, etc is likewise dispatched with “An artisan in the field would have been expected to determine the optimum ratios, amounts and molecular weight for the ingredient(s). One would have been motivated to do this in order to develop an invention that would have been most effective in controlling insects on plants without destroying the plants.”

In reply, Applicant argued that the Office Action failed to make out a *prima facie* case of obviousness. This argument has not been explicitly commented upon in the outstanding final office action and the deficient rejection is repeated. In response to Applicant’s arguments, the office action merely makes the generalisation that “the lists in Hopkinson are finite. Therefore, it would have been obvious to deduce the instant composition from the lists in Hopkinson.”

Applicant once again requests that the §103(a) rejection either be made properly or be withdrawn.

Even assuming a proper rejection was made, Hopkinson fails to render the claimed subject matter obvious. Hopkinson discloses surfactant systems for agricultural compounds. A basic compound is used to neutralize an anionic surfactant, an alkyl polyglycoside is present as is at least one agriculturally active compound. A person having skill in the art interested in improving Hopkinson would look to the stated goal of the reference: to provide an improved surfactant system giving improved performance and a good environmental safety profile.

With this stated goal and the focus on surfactant systems, the skilled person would be most likely to work with the active compounds for which detailed experimental evidence is provided, namely atrazine, S-metolachlor, benoxacor, glyphosate isopropylamide salt, and butafenacil. There is no guidance in Hopkinson to encourage the skilled person to select abamectin, which is only one of three hundred sixty-five compounds listed (column 7, line 52 through column 9, line 15). Accordingly, it is improper to read Hopkinson as rendering the an abamectin-related invention obvious and the rejection should be withdrawn.

For the reasons set forth above, Applicants respectfully submit that the present response overcomes all outstanding objections and rejections. Applicants respectfully request allowance of all claims.

The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 50-1676 in the name of Syngenta Crop Protection, Inc.

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Date: November 18, 2011